

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON HUMAN SERVICES

Call to Order: By **CHAIRMAN BILL THOMAS**, on January 24, 2001 at 3:00 P.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Bill Thomas, Chairman (R)
Rep. Roy Brown, Vice Chairman (R)
Rep. Trudi Schmidt, Vice Chairman (D)
Rep. Tom Dell (D)
Rep. John Esp (R)
Rep. Tom Facey (D)
Rep. Daniel Fuchs (R)
Rep. Dennis Himmelberger (R)
Rep. Larry Jent (D)
Rep. Michelle Lee (D)
Rep. Mark Noennig (R)
Rep. Holly Raser (D)
Rep. Diane Rice (R)
Rep. Rick Ripley (R)
Rep. Clarice Schrumpf (R)
Rep. James Whitaker (R)

Members Excused: Rep. Brad Newman (D)
Rep. Jim Shockley (R)

Members Absent: None.

Staff Present: David Niss, Legislative Branch
Pati O'Reilly, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 178, HB 222, HB 324,
1/21/01

HEARING ON HB 178

Sponsor: REP. STAN FISHER, HD 75, Bigfork

Proponents: Kara Plender, Swan Valley Youth Academy

Yvonne Patterson, Program Manager, Swan Valley
Youth Academy

Bob Runkle, Dir. of Spec. Ed., O.P.I.

Opponents: Jani McCall, Yellowstone Boys' and Girls' Ranch
Tim Miller, Dir., Bitterroot Valley Ed. Cooperative
Mike Savage, Intermountain Children's Home
John Wilkinson, Dir., Intermountain Children's Home
Mona Jamison, Shodair Children's Hospital
Kristi Blazer, Children's Comprehensive Services

Informational Witnesses: Mike Ferriter, Admin., Community
Corrections Division

NOTE: Informational testimony which was recorded at a special committee hearing held on January 17, 2001 is included in these minutes. Testimony from 1/17/01 will be marked with the date on the tape counter; all others are from the 1/24/01 hearing.

Opening Statement by Sponsor:

REP. STAN FISHER, HD 75, Bigfork, said that the bill changes the statute relating to payment of educational money to a correctional-type institution. Going back three or four years, the Dept. of Corrections operated a boot camp in the Swan Valley, and through a sequence of very sad deals, they closed it. He worked with the Dept. of Natural Resources to find someone to lease it, and finally found an organization called Cornerstone. They take children from ages 12 to 18 who have been court adjudicated, put them into their schools, and try to turn them around. They set up the Swan Valley Youth Academy, which serves a very needed purpose, and they do a very good job. It is important to the Swan Valley, which has been economically hit because of the logging situation. The payroll is about \$400,000. One of the state's conditions was that they had to have a school there that was acceptable to the Office of Public Instruction. Since they opened, they have had a teacher and they meet all the accreditations of a regular school. Prior to opening, they obtained necessary permits and licenses. They had a letter saying they had met the qualifications for being paid for student enrollment. About a year after they got started, they determined that because of the type of center that they are, they don't fall under that category, so OPI suggested that the statute be changed, which resulted in HB 178. ***Tape dated 1/17/01 : 1; Side : A; Approx. Time Counter : 0 - 4 {Tape : 1; Side : A; Approx. Time Counter : 0 - 2.2}***

Proponents' Testimony:

Kara Plender, Cornerstone, Denver, Co., representing Swan Valley Youth Academy, thanked the committee for allowing her to testify on January 17 rather than having to return to Helena from Denver on January 24. The SVYA, which used to be the old Swan River boot camp, is opened and operated by Cornerstone, who leases it from DNRC. Currently the statute reads that residential treatment facilities which are more psychiatric, mental health-type facilities, are receiving funding from OPI for children in those programs. Her job is developing programs for Cornerstone, and when she began to develop SVYA, she was told that by directors and the superintendent of OPI that if she followed certain rules and got certain licensing, they would also be eligible for those educational dollars. She did that, then found out that they were not a residential treatment facility (RTF), they are a residential treatment center. They work with adjudicated kids who are not bipolar or schizophrenic but are oppositional defiant and conduct disorder kids. SVYA keeps them out of Pine Hills, works with them, and returns them to the community. They offer education, drug and alcohol programs, they have a psychologist and a psychiatrist who work with the kids, and master's level social workers are their primary treatment givers. Although she followed what needed to be done, she was later told that SVYA is a residential treatment center, rather than a facility. She had developed their per diem around receiving educational dollars in addition to what the judicial districts' youth courts need to pay. At this time, SVYA is in deficit and losing thousands of dollars every month, but keeping open because they believe that what they're doing is good for the state and for children. So far they've had a 100 percent success rate among the 13 kids who have been discharged from the program and are either working or going to school. **{Tape : 1; Side : A; Approx. Time Counter : 0.7 - 15.1}**

Yvonne Patterson, Program Manager, Swan Valley Youth Academy, said that the goal of the program is that the legislature does not have to spend funding on adult prison systems and that the young men who have been in the program can become Montana taxpayers. The Academy has 31 employees, who have paid over \$20,000 in state taxes in the year since they opened.

Bob Runkle, Director of Special Education, Office of Public Instruction, said that in the early 1990's, the way education was funded in residential facilities was for local public schools to make payments for children placed by state agencies into those programs. So a local public school would be in a situation where, if a child was placed by a state agency, that school had to cover the education costs. That seemed quite unfair, and it was quite expensive for the state and for the local school districts. In about 1993, the funding structure was changed, and that structure is the basis of this bill. The current structure is that if a child

goes to a residential treatment facility, that facility's education costs, if they're not covered by medicaid, are covered by OPI. Those costs that are covered are specifically defined in state law. In other words, it doesn't cover all the costs, like the heat, lights, building and administrative costs. It only covers "allowable costs." It is his responsibility to negotiate the rate, which today is about \$52 a day for children who attend the four facilities that are currently funded: CCS in Butte, Yellowstone Boys' and Girls' Ranch in Billings, Shodair Hospital and Intermountain Children's Home in Helena. \$52 a day sounds like a lot of money, which it is, but those costs are very significant in those programs. They are serving children with very significant emotional problems, and the teacher/student ratio is low. If you compare it to the average cost of a high school student in Montana, the average expenditure overall runs about \$6,500 a year. So if you talk about the same 180 days' worth of instruction for these programs, they're about \$3,000 more than the average expenditure statewide for a high school student. He believes it is a manageable bill if there is an appropriation to address the associated costs. His position as a proponent is contingent upon an appropriation adequate to meet the needs of the expenditures in the bill. The fiscal note shows the anticipated overall costs to be about \$800,000 the first year and \$1.2 million the second year. The current appropriation for residential treatment facilities is funded at a level higher than what is currently being distributed to residential treatment facilities. Current HB 2 language, which has been in place for at least the last three legislative sessions, has allowed OPI to distribute any unused amounts to public schools. The average amount they've distributed to public schools is approximately \$380,000. This money has helped public schools deal with children with significant emotional and behavioral problems. Schools value that money and see it as their safety relief valve for a relatively volatile mental health system, and when kids come back from residential treatment programs, this is an amount of money that they can draw on. OPI's desire for this bill is for the committee's approval of the bill, contingent on a line item appropriation that's specific to this type of facility. The current appropriation is intended for children with emotional disturbances. If the bill is passed, OPI's preference would be that there would be an appropriation for these children who have been adjudicated.

EXHIBIT (huh19a01) {Tape : 1; Side : A; Approx. Time Counter : 6 - 7.5}

Opponents' Testimony:

Jani McCall, Yellowstone Boys' and Girls' Ranch, Billings, said that educational funding for children with emotional problems who are not eligible for medicaid funding was addressed by OPI and providers almost a decade ago. Providers agreed to a reduced

education reimbursement rate, in return for funding for those youth to be paid directly by OPI. Previously, providers would bill the home districts of these youth, a process which was very controversial, difficult and complicated. Home districts of these youth often felt that they didn't need to fund the educational costs, because often it wasn't their decision to remove the youth from their homes and place them into treatment. Section 20-7-435 provided that OPI would pay the educational costs with funds appropriated for these youth, not to exceed \$500,000 during a biennium. This figure has not changed over the past ten years. Additionally, these funds are available for school districts who place children in day treatment programs outside of their homes. This bill as written creates a monumental funding problem. The fiscal note indicates an increase in funding needed to cover the expanded population for whom the bill is being brought forward and the potential expansion for other providers of service for youth who are now in the juvenile justice system who are placed in treatment programs operated by private, out-of-state-based corporations: Cornerstone, Brown Schools and Aspen. This bill as written does not provide for a means of funding for this anticipated cost, which is upwards of \$500,000 to \$1.2 million. Unless there is a separate line item appropriation for HB 178, YB&GR stands in opposition to the bill. Unless additional appropriation is guaranteed, the funding for providers currently providing education for children and adolescents not eligible for the medicaid reimbursement because they do not meet the criteria, and funding for local school districts to provide external day treatment options, will be minimized to a point where providers will not be able to operate the special education services that they currently provide. She urges the committee to oppose the bill unless there is an appropriation. **EXHIBIT(huh19a02){Tape : 1; Side : A; Approx. Time Counter : 7.5 - 19.5}**

Tim Miller, Director, Bitterroot Valley Education Cooperative, Stevensville, said he is opposed to the bill. It is well intended but would create more problems than it would solve unless there is a special appropriation attached. Without an appropriation, it will hurt public schools and existing residential treatment facilities.**{Tape : 1; Side : A; Approx. Time Counter : 19.5 - 24.3}**

Mike Savage, Education Program Manager, Intermountain Children's Home, Helena, said they are opposed to the bill and are taking a different approach, although they do agree that the bill needs a funding mechanism. He is looking at the population of children who would potentially be served by the bill. It would add a new category of eligible children, primarily children who are adjudicated through the youth courts. Currently eligible children are those who are emotionally disturbed and who need clinical treatment and who have not usually passed through the youth court

system. This bill proposes to include youth who are delinquent or in need of intervention. Montana law provides for a separate and quite contrasting definition for the youth in need of care, as opposed to what the bill proposes, to provide services for the youth in need of intervention. A youth in need of care is or has been abused or neglected. Psychiatric hospitals and residential treatment facilities treat these youth but do not treat adjudicated youth out of the youth courts who have committed and have been found culpable for offenses. HB 178 signals a clear departure from the principal and intent of providing a funding mechanism for the clinical treatment of emotionally disturbed youth and of youth in need of care. Youth defined in the Youth Court Act and as included in this bill are juvenile offenders, who are typically served by the Dept. of Corrections, not in treatment programs. **{Tape : 1; Side : A; Approx. Time Counter : 15.6 - 30.3}{Tape : 1; Side : B; Approx. Time Counter : 0 - 0.9}**

John Wilkinson, Director, Intermountain Children's Home, Helena, said it is with a heavy heart that he opposes this bill, in part because he knows how difficult it was to try to get the funding mechanism in place that is now in place. In the fiscal note, under point #14, the current rate paid by the Dept. of Corrections to the Swan Valley facility does not include a component for education. When the dept. awarded the contracts, they did not think through that these youngsters needed to be educated, so the burden fell on the local school districts. That is not fair. But to come through the back door and say that we're going to raid, potentially, this source of funding that was clearly designed and has worked very well for the needs of these children, he submits is very poor public policy. From his perspective, the Dept. of Corrections should have come in here when they created this category and decided to disperse their correctional mission away from Pine Hills into these dispersed programs, and also thought through at the same time that the kids also needed to be educated, and there should have been a mechanism provided for this in the contracts that were let. Instead, we as providers are fighting other providers about a very scarce source of revenue, and that is wrong. The average child in his program is 10 years old at the time of admission, has had 11 different placements prior to that, and the system has not served them very well. He doesn't want to see the state be party to creating another situation, due to scarce financial resources, where yet another group of children is going to be failed by the system. His program also includes a day treatment program, and they do access these funds for that program. The success rate for their residential program is 80 percent, and the success rate they are achieving with their day treatment program is close to 100 percent, as measured by kids not going into residential care but being retained in their own families. All providers are trying to promote the development of programs that don't just serve children but

produce the outcomes that reflect effective stewardship of resources. **{Tape : 1; Side : B; Approx. Time Counter : 0.9 - 5.8}**

Mona Jamison, Shodair Children's Hospital, Helena, said that Shodair was founded in 1896 and has continuously provided care to Montana children and families. They are licensed as a hospital and provide eight acute care beds, four for children ages 5-12 and four for children ages 13-18. They also operate a licensed 36-bed residential treatment center with 18 beds for children and 18 beds for adolescents. Last year their uncompensated care exceeded \$1 million. She said that Mr. Wilkinson had expressed the concerns of Shodair. Without an express appropriation directed towards this bill, they feel that the other funds directed toward those other children will suffer. She recommends, so most of the opponents can turn into proponents, that the committee give this bill a line-item appropriation. **{Tape : 1; Side : B; Approx. Time Counter : 5.8 - 10}**

Kristi Blazer, Children's Comprehensive Services (CCS), said that CCS has its primary facility in Butte, a hospital and residential treatment center for children. CCS also has six satellite facilities in cities around the state. They had planned to testify as a proponent due to the concept of this bill, but are opposing it due to the funding aspect. They agree with the prior opponents that there should be a line-item appropriation, and the figures mentioned by Bob Runkel were \$800,000 for 2002 and \$1.2 for the following year. She requested that the committee not dilute the scarce funds that are currently available for non-adjudicated children. **{Tape : 1; Side : B; Approx. Time Counter : 10 - 11.6}**

Informational Testimony:

Mike Ferriter, Administrator, Community Corrections Division, said that he oversees the juvenile placement unit, and wanted to clarify a couple of points. The Dept. of Corrections does not have a contract with the Swan Valley Academy. It currently has one contract with a private provider, Alternative Youth Adventures (AYA), which used to be called Aspen. That contract does include educational costs. AYA provides an independent education program, and it is clearly written in the contract. The division had a contract with Brown Schools for a sex offender program in Deer Lodge for juveniles. That contract, which has expired, did have an educational component included. He explained how youthful offenders, or youth in need of intervention come to the Academy through the Youth Placement Committee, in the Youth Court Act. The Dept. of Corrections has a budget of approximately \$8 million for the placement of youth that the Youth Court feel need to be in out-of-home placement. The Academy is one of the programs that the committee may choose to use for the placements, in addition to

traditional group homes, out-of-state placements, and foster homes.
{Tape : 1; Side : B; Approx. Time Counter : 11.6 - 14.8}

Questions from Committee Members and Responses:

Committee members questioned Kara Plender on January 17. Rep. Dell asked for an explanation between a residential treatment facility and a residential treatment center. Ms. Plender said an RTF is typically classified as a children's psychiatric unit, such as Yellowstone Boys' and Girls' Ranch. They serve kids who are mentally ill, bi-polar, schizophrenic, and psychotic. SVYA has the kids who are conduct disorders, who fight in school, shoplift or burglarize homes. A residential treatment center is probably one step lower in means of mental health. The kids who come into these programs are kids that the public schools don't want, and they have to be court ordered into a program in order for the facility to receive the reimbursement.

Rep. Brown asked if Ms. Plender realized that the effective date of the bill is July 1, 2001, which wouldn't help for what SVYA has done in the past. She said she is prepared to take a financial loss until that time. She is currently losing about \$46,000 a month. Rep. Schmidt asked about the maximum capacity of the facility. Ms. Plender said it is 48 kids and there are presently 17. It was originally to be for only Montana kids, but since Montana funding is limited for such programs, they will try to obtain some out-of-state kids. Probably only 30 -32 Montana kids would obtain the educational funding through this bill. The out-of-state youth would be funded by the Dept. of Corrections in their states of origin.

Rep. Ripley asked how the funding process works and if she could recoup the entire \$46,000 a month loss. Ms. Plender said the amount she is losing includes \$500,000 that had to be put into the physical plant. Their funding comes from the Mt. Judicial districts. There has been some opposition to sending kids to SVYA because of the per diem. She believes that the OPI funding is a one-time per year funding based on how many kids are served for how many hours and how many days. Funding would not have to be funneled through the school districts but would come directly through OPI. They have negotiated with OPI to create a separate line item so they wouldn't be classified with residential treatment facilities, so their rate could be negotiated. It costs about \$48 a day per student to provide the kind of educational program they want to provide, which include some vocational training.

Rep. Facey asked how they could make up the \$46,000 they are losing each month if they get 30 in-state students and get about \$4,500 per student for the educational funding. Ms. Plender said that amount is just for the education, and they have a per diem of \$153.50 per day per kid, so by increasing the numbers of kids in

the program, they could make up the deficit. Rep. Lee asked if there was a difference in the amount charged for per diem and the funding mechanism for low-income kids, and Ms. Plender said no.

Rep. Dell asked Yvonne Patterson if she had a response to the concerns expressed about the funding mechanism. Ms. Patterson stated that she would not want to do anything to detract from the other programs, and they would be agreeable to a line item separate from the other programs. She doesn't think they are in a contest to see which children have the greatest needs. The children who come to the Academy are adjudicated delinquents who have committed crimes, but they are not serious juvenile offenders because the only felony they can accept is burglary. The Academy has admitted Montana children from other treatment facilities. 95 percent of the youth served come from extremely abusive households and have been abused and neglected. Before the Academy accepted their first child, they received a letter from OPI that said if they became a residential treatment center under the statute that is being discussed today, they would receive funds from OPI just as the other agencies did. That was the reason that the per diem was set as it was. After they opened, it came to the attention of the attorneys that they were not a residential treatment facility but a residential treatment center, so they are not being funded for education. She is "eating" over \$14,000 a month in educational costs. The Academy is committed to education, because they believe it is a critical part of treatment.

Rep. Lee asked Yvonne Patterson what it would take to get them to the facility level versus the center level. Ms. Patterson said they would have to become a facility that would be accredited by the Joint Commission on Accreditation for Hospitals. They are a behavioral, cognitive model, not a medical model and it was not their intent to become a medical model; and that is the difference. There is no medical director, but they do have treatment plans, a psychiatrist and psychologist on contract, and in-house chemical dependency counseling. Rep. Lee asked if they have contracts with other states for the out-of-state students. Ms. Patterson said no. She doesn't currently accept kids from other states. She has Montana kids who have come from other treatment facilities and agencies, some of which were located in other states. Rep. Lee asked if there were plans to accept students from other states, and would the contracts include an education cost. Ms. Patterson said they presently have three Montana youth from reservations who came out of the Bureau of Prisons, and the BOP has asked if the Academy could take children from neighboring states, but it isn't for certain whether that will happen. Whether the education price would be included in the per diem would have to be negotiated. In terms of this proposal, as discussed with Mr. Runkel, the per diem rate would be based strictly on Montana youth.

Rep. Raser asked Bob Runkel if he agreed with Mr. Savage's testimony that the population served by the Academy is different from the population that was originally determined in the bill. Mr. Runkel said he believes they are two different populations. The eligible child definition makes it pretty clear in the current law that the intent is to serve children with emotional disturbances, while this bill is designed to serve the needs of children who are adjudicated. Those population groups are very different. Rep. Raser asked if OPI currently pays for the education of adjudicated youth who are sent to AYA or Brown. Mr. Runkel said they do not pay for adjudicated youth in residential facilities at this point. They only pay for children with emotional disturbances sent to residential treatment facilities. Rep. Raser asked Mike Ferriter if it is true that currently they are paying for some youth in AYA. Mr. Ferriter said yes.

Rep. Raser asked Mr. Ferriter why they do not currently have a contract with the Academy, and he said they chose not to enter into any additional contracts at this point.

Rep. Esp asked Mr. Ferriter about the education of the kids who end up in Pine Hills, and he responded that Pine Hills and Riverside, the correctional facility for girls located in Boulder, have their own educational programs which are accredited through OPI.

Rep. Noennig asked Bob Runkel to clarify testimony that when the center was developed there was assurance received from OPI that there would be funding if there was an expansion of the definition in the statute. Now it seems that this is a major change in the focus of the legislation and it would be a new area for funding, and he wondered if there was a misunderstanding. Mr. Runkel said he didn't have a copy of the letter that had been referred to, but it had been prepared with the belief that the title of the facility and the license was similar to what they already had licensed. They have licenses for residential treatment facilities and licenses for a program called child care facility-residential treatment center. The confusion began with the similarity of the titles and the different licensures. Rep. Noennig asked if there had been any other investigation as to the nature of this center other than the name of it when a commitment was made to fund it. Mr. Runkel said conversations had gone on, but obviously they didn't effectively communicate with the program about what the particular license was and the options under licensure. Rep. Noennig asked whose duty it was to find out whether this program qualified before the letter was written. Mr. Runkel said they were probably all at fault, and there were misunderstandings with them and the licensure bureau about the options for licensure, and misunderstanding with them and the Swan facility about exactly what they were applying for. He offered to provide a copy of the letter to Rep. Noennig.

Rep. Brown asked the sponsor about the confusion and misunderstandings regarding the funding and how the bill got from a zero fiscal note to a million dollar fiscal note. Rep. Fisher said he had not previously seen the fiscal note and had the understanding that funds were available. This facility was leased to Cornerstone by the Dept. of Natural Resources. It went to them from the Dept. of Corrections, after it had been abandoned following an unfortunate occurrence there about four years ago when it was a DOC boot camp. He understood that in order to be licensed, the Academy was required to have a school.

Rep. Dell asked the sponsor if he would be comfortable with this bill being a "dog and cat bill." Rep. Fisher said he knew the committee would make the best decision. Rep. Schmidt asked Mona Jamison about the statement that had been made that all the other organizations were non-profits. Ms. Jamison said she could not speak for all of them as it would be only speculation. Shodair provides services and has a foundation to help fill in the funding blanks, but still had \$1 million of uncompensated services last year. There are limits to all of the facilities' generosity before they go broke in providing services. The history is very confusing between what is a residential treatment facility and what's a center, yet the bill sets forth the definitions on pages 4 and 5. Their concern is that if the bill passes as is, without additional funding, it will deplete the services to children who are already getting their educational needs fulfilled. **{Tape : 1; Side : B; Approx. Time Counter : 14.8 - 30} {Tape : 2; Side : A; Approx. Time Counter : 0 - 2.5}**

Closing by Sponsor:

Rep. Fisher apologized for the length of the hearing and the fact that the committee was being asked to appropriate money, which is not their job. The bill was drawn by OPI and had been worked on for some time, and he thought it would be a simple procedure, which it is not. **{Tape : 2; Side : A; Approx. Time Counter : 2.5 - 16.7}**

HEARING ON HB 222

Sponsor: REP. MICHELLE LEE, HD 26, Livingston

Proponents: Briana Kerstein, Mt. People's Action
Wendy Young, WEEL & Mt. Women's Lobby
Brian Cameron, League of Women Voters
Betty Whiting, Mt. Assn. of Churches
Verner Bertelsen, Mt. Sr. Citizens' Assn.
Jani McCall, Deaconess Billings Clinic
Claudia Clifford, Insurance Commissioner's office
Bonnie Adee, Mental Health Ombudsman

**Colleen Murphy, Ex. Dir., Mt. Chapter, N.A.S.W.
Sami Butler, Mt. Nurses' Assn.**

Informational Witnesses: **Chuck Butler, Blue Cross/Blue Shield**

Opening Statement by Sponsor:

REP. MICHELLE LEE, HD 26, Livingston, said this bill allows CHIP coverage to be extended to single custodial parents and raises the poverty level from 150 to 200 percent. It is supposed to eliminate the medicaid assets' test, but that got lost and she will get it reinserted through an amendment. She also presented another amendment stating that an eligible parent may be required to participate in cost-sharing. The bill directs DPHHS to seek a waiver under section 1115. Currently there are 13,664 medicaid children whose parents are not currently covered by medicaid and would be eligible for this demonstration program. Of the CHIP households, 2,336 are single-parents, so the total population we're talking about is about 19,000. She expects that to drop once the income guidelines and income phase-outs are brought in. By raising the poverty level to 200 percent, some of the folks who are on the low end of the CHIP eligibility will fall into medicaid, and we will have a bigger window at the top end of CHIP. **EXHIBIT (huh19a03) EXHIBIT (huh19a04)** {Tape : 2; Side : A; Approx. Time Counter : 16.6 - 22.9}

Proponents' Testimony:

Briana Kerstein, Mt. People's Action, said that health care is the top priority of her organization. This bill takes the first step toward solving the big problem we have in our state, which is that folks who are working hard but have no health insurance are on the brink of getting themselves into serious trouble. They want to see CHIP expanded because it is a good program and working really well. There are 9,500 kids on the program and about 24,000 kids that still don't have health insurance. Getting insurance for parents is just as important. People are trapped, because insurance is just too expensive. It is important to expand CHIP because it's the best use of our money, since Montana puts up 20 percent and the other 80 percent comes from the federal government. {Tape : 2; Side : A; Approx. Time Counter : 23 - 30.1}

Wendy Young, WEEL, said that her statewide organization represents families who are currently on assistance, who have left assistance, and those who are in between. These are the people who will be affected by this bill. She is also representing the Mt. Women's Lobby, who supports the bill. **EXHIBIT (huh19a05)** {Tape : 2; Side : B; Approx. Time Counter : 0 - 1.6}

Brian Cameron, League of Women Voters, agreed with the previous proponents. Increasing CHIP eligibility to 200 percent of the poverty level is a positive and expansive step. The provisions of the bill help insure the kind of financial solubility by providing a bit of a sliding scale to insure that children with the greatest financial need are served first. A demonstration project is a welcome opportunity to see what further expansion of this program might bring, including benefits and impediments. *{Tape : 2; Side : A; Approx. Time Counter : 1.6 - 1.8}*

Betty Whiting, Mt. Assn. of Churches, said they support all efforts to have healthy children in Montana. They also support health care system reforms that grant universal access to health care benefits to everyone. *{Tape : 2; Side : A; Approx. Time Counter : 1.8 - 2.9}*

Verner Bertelsen, Mt. Sr. Citizens' Assn., said this is an excellent opportunity to make our funds in Montana go a long way in providing the health care that those parents and those children need. *{Tape : 2; Side : A; Approx. Time Counter : 2.9 - 5.1}*

Jani McCall, Deaconess Billings Clinic, said they strongly support the bill. CHIP has been one of the most successful programs in Montana for children and families, and this is an opportunity to expand it. **EXHIBIT**(huh19a06) *{Tape : 2; Side : A; Approx. Time Counter : 5.1 - 6.1}*

Claudia Clifford, Insurance Commissioner's office, said they support this bill because it is a good thing to get everyone insured in our system. When people have no insurance, they are often in the situation of uncompensated care and aren't able to pay their bills. Somebody has to pay their bills at some point, and that's usually people who have insurance. *{Tape : 2; Side : A; Approx. Time Counter : 6.1 - 7.9}*

Bonnie Adee, Mental Health Ombudsman, spoke on behalf of family members of children who have mental illnesses and mental health needs who aren't insured. They ask her what options they have for assistance, because they aren't eligible for medicaid and usually are not eligible for the mental health services plan or for CHIP. She has no good answers for them. She supports any expansion of a non-medicaid option, which CHIP is, to insure these folks. 15 percent is the estimate of how many people eligible for CHIP are those with mental health needs. *{Tape : 2; Side : A; Approx. Time Counter : 7.9 - 10.6}*

Colleen Murphy, Ex. Dir., Mt. Chapter of the Nat. Assn. of Social Workers, said she has been attending the mental health budget hearings in the Appropriations Committee, listening to the problems of persons who have "fallen through the cracks." People who have no

health insurance and do not qualify for medicaid are facing desperate situations when trying to obtain mental health services for their children. Montana pays for it, one way or the other, and there is no cheap way out. **{Tape : 2; Side : A; Approx. Time Counter : 10.6 - 12.3}**

Sami Butler, Mt. Nurses' Assn., said that nurses are the largest health care providers in the state, the nation and the world. They care for kids and their parents, and they urge support of this bill. **{Tape : 2; Side : A; Approx. Time Counter : 12.3 - 13.1}**

Opponents' Testimony: None

Informational Testimony:

Chuck Butler, Blue Cross/Blue Shield, said that BC/BS of Montana has worked with DPHHS since the beginning of the Children's Health Insurance Program, and at this time they continue to be the only health insurer partnering with the department in the CHIP program. He would be happy to respond to any questions from the committee regarding how the program operates from a private insurer's standpoint. **{Tape : 2; Side : A; Approx. Time Counter : 13.1 - 14.9}**

Questions from Committee Members and Responses:

Rep. Brown said he did not see a fiscal note on the bill and he wondered how much Montana's 20 percent match would cost. **Rep. Lee** said that is still being worked on. Under the 1115 waiver, if the parents pay their way into the system, Montana will get the match on that, because none of the rules will apply to this demonstration project. It's a 3-1 match; for every dollar the parent pays into the system, we get three federal dollars.

Rep. Facey asked **Rep. Lee** to explain CHIP to him in general terms. Mary Dalton, Bureau Chief, Health Policy and Services Division, explained that CHIP is a state/federal program. Montana gets about 80 cents of every dollar from the federal government. CHIP was passed by the last legislature, and Montana chose to buy private insurance. The state's partner is Blue Chip, through BC/BS. 9,500 kids are presently covered, with most services coming through Blue Chip. Eye glasses and dental services are contracted for separately. **Rep. Facey** asked approximately how much the 20 percent state match is. Ms. Dalton said there are a variety of bills going around right now. **Rep. Facey** asked about the existing program. Ms. Dalton said she was trying to remember the number. **Rep. Lee** said the cost for a child is \$2,610 per year and \$3,463 per year for an adult. **Rep. Facey** asked if this is current. **Rep. Lee** said the adult part is not current; the child part is current. **Rep. Facey** asked Ms. Dalton if the family pays any premium, and she responded that

under the current program, the family pays a \$215 co-pay per year, but they don't pay a premium. That is for families that are between 101 and 150 percent of poverty. There is no co-payment for families who are under that. The co-payment is limited to 2.5 percent of a family's gross annual income. There used to be an enrollment fee, but that was eliminated.

Rep. Facey asked if the bill would set a two-year pilot program. **Rep. Lee** said that is correct. **Rep. Facey** asked if the highlights of the program are that the eligibility requirement for the family would go up to 200 percent of the federal poverty level. **Rep. Lee** said that is correct. We have to do that in order to get the waiver. **Rep. Facey** asked the sponsor what other basic information he needed to know about the pilot program. **Rep. Lee** said that it would be a 1115 waiver and that we will eliminate the medicaid assets test. **Rep. Facey** asked for an explanation of the 1115 waiver. Mary Dalton explained that it is called a "research and demonstration waiver," and it is actually what Montana is operating now for the FAIM program, our welfare reform program. In order to qualify for a research waiver, the state has to prove something that the federal government is interested in; it has to be a true research project with certain studies and criteria to prove cost-effectiveness. Cost neutrality is not a waiverable item, so in looking at a waiver for medicaid or for CHIP, you have to be able to serve an expanded population for what it would have cost you to serve the original population. If we are going to take the children up to 200 percent of poverty, because Montana's medicaid coverage is at the minimum level, we will have to be able to cover those adults at the same cost that we would cover children. **Rep. Facey** asked if TANF funds could be used for this. Ms. Dalton said a combination of coverage could be done for people in this instance. Under federal medicaid law, you can raise the eligibility for pregnant women and children up to age 6 to 185 percent of poverty, and if you do that as medicaid, it becomes an entitlement and you get approximately 70 cents on the dollar for the services. Many states have done that, and then covered their population that is not covered by medicaid with their CHIP funds.

Rep. Dell asked Mary Dalton if any other states have this project at this time. Ms. Dalton said that recently three states had been granted demonstration waivers to expand their populations to cover parents. These were medicaid expansion programs. **Rep. Dell** said they're having a hard time nailing down what the state is responsible for in terms of the 20 percent because this is a demonstration project, and he wondered if that is accurate. Ms. Dalton said she didn't have her notebook with the exact number, but explained that the CHIP program is not an entitlement but is a ten-year grant. Montana can't receive more funds than its share of the state grant plus unexpended funds from other states. Montana's

portion of the grant, which is right around \$14 million, is 20 percent. Under this waiver, Montana would have to take it up to 200 percent of poverty, so about 16,000 kids are covered, and prove that insurance could be provided for those children and the 20,000 parents for the same price as you would provide insurance for 16,000 children. No additional federal funding is available.

Rep. Brown asked Mary Dalton how you can raise the level from 150 percent of poverty to 200 percent and add parents and still have it revenue neutral without the people who are on the program now being hurt? {Tape : 2; Side : B; Approx. Time Counter : 14.8 - 28}

Mary Dalton said that they would have to find an insurance company willing to sell a policy, or to be able to do it under medicaid, for the same price that they would have covered children.

Rep. Noennig asked if the same price meant the same price per participant. It didn't make sense to him to say that you could increase from 150 to 200 percent and add families and not have to pay more money for the coverage. Ms. Dalton said that is what she is saying. You'd have to find an insurance company that would sell a family policy that would cover the parents and the children for the same rate as that family is now paying for coverage for only the children. Rep. Noennig asked how the same amount of money could go as far since many more people would be covered by raising the level from 150 to 200 percent. Ms. Dalton said the state did not fully expend the first two years of the CHIP grant. The money saved could be reapplied for the next eight years and used for the expansion. There will be a fiscal note on this bill.

Rep. Facey asked Mary Dalton to explain what she had said about if the state spent a certain amount of money writing medical coverage for children on medicaid, and took the same amount of money to cover the parents, that the medicaid money could be used to cover this program. Ms. Dalton said it would be a refinancing program. Some states have increased medicaid eligibility so took children that Montana currently covers under CHIP and covered them under their regular medicaid program. Then they took their CHIP allocation and their grant to cover an expanded group of children. She thinks of this as a layering finance. First you serve kids at the lowest income levels with medicaid, then you fill in the blank with the CHIP program. In Montana we also have a Caring Program which covers children at a little higher level of poverty, and they all work together. Rep. Facey asked if Montana changed the type of medical services covered under medicaid, would it provide enough savings to expand CHIP. Ms. Dalton said some services for children under medicaid are mandatory and some are optional, but services for children are all mandatory, so you can cut some service packages to adults, but not to children. {Tape : 2; Side : A;

Approx. Time Counter : 14.9 - 30} {Tape : 3; Side : A; Approx. Time Counter : 0 - 6.2}

Closing by Sponsor:

Rep. Lee said the design of this program is to get the waiver so the parents can co-pay into the system, raise the 150 percent poverty level to 200 percent in the CHIP program, and, with the proposed amendment, to eliminate the medicaid assets test. This bill is important for families and she urges a do pass. **{Tape : 3; Side : A; Approx. Time Counter : 6.3 - 7.4}**

HEARING ON HB 324

Sponsor: REP. JEFF MANGAN, HD 45, Great Falls

Proponents: Denzel Davis, Adm. Quality Assurance Div. DPHHS
Kelly Rosenleaf, Pres.Mt. Child Care Resource &
Referral Network
Chauntel Lucier, Great Falls
Wendy Young, WEEL and Mt. Women's Lobby

Opponents: None

Opening Statement by Sponsor:

REP. JEFF MANGAN, HD 45, Great Falls, said the bill relates to licensing of drop-in day care centers, and the change to current law is found between line 17 and 27. He is a member of the statewide child care advisory council, where this bill originated. Presently the only day care facilities that are not required to be licensed under current law are drop-in facilities. There has been an increase in the numbers of drop-in facilities and numbers of children attending them. This state is first or second in the numbers of parents working at two or more jobs, and there is a need for drop-in day care, which is generally after-hours, short-term care. Drop-in facilities should be licensed like any other child-care facility. Quality child care is important, and presently drop-in centers don't have to meet requirements for square footage per child, staff training requirements including CPR and first aid, and a number of others. **{Tape : 3; Side : A; Approx. Time Counter : 7.7 - 11.2}**

Proponents' Testimony:

Denzel Davis, Administrator, Quality Assurance Division, DPHHS, said the department supports this bill, which allows the day care

unit of his division to develop health and safety standards for drop-in facilities. He is aware of about 25 of these facilities in the state. There is one glitch in the bill. The fiscal note indicates that it is only funded in the second year of the biennium, which is problematic, because it would not get into the division's base. It would look like a brand new program in the next biennium, so these funds would have to be approved through the department and through the governor's office so the program could continue in the next biennium. They think it is important for it to continue, but it puts them in a difficult spot to get funding for the next biennium. **EXHIBIT(huh19a07) {Tape : 3; Side : A; Approx. Time Counter : 11.5 - 13.5}**

Kelly Rosenleaf, President, Mt. Child Care Resource & Referral Network, said the network consists of twelve member agencies who provide services throughout Montana to support families with young children and child care providers. The network realizes the important role that drop-in facilities play in the greater scope of all kinds of child-care facilities. They are concerned that such facilities are completely unregulated at this time and have no staff/child ratios. Many of them have far more children per adult than other regulated facilities, which raises important quality concerns. They are not accessible to low-income families, who most need them often because of non-standard, variable-shift jobs. Because they are not regulated, child-care block grant funds cannot be used to pay for the care, so families receiving child care subsidies cannot use those funds to pay for drop-in care. They also are not eligible for the child and adult care food program, which is federally funded with no state match, and has required nutritional standards established by the USDA. This bill would allow greater accessibility for low-income families and establish minimum standards for quality of care for such facilities. **{Tape : 3; Side : A; Approx. Time Counter : 13.5 - 15.8}**

Chauntel Lucier, Great Falls, is a working parent who supports this bill. She works odd hours and has to travel at a moment's notice, so needs back-up day care, in addition to her registered day care, for her two-month-old son. Having to use unregistered, unregulated day care is not a good choice for a parent who is concerned with a child's health and safety. Infants have special needs and are time-consuming, and she is concerned about day care adult to child ratios. **{Tape : 3; Side : A; Approx. Time Counter : 15.8 - 18.3}**

Wendy Young, WEEL and Mt. Women's Lobby, supports the bill. Some people are presently using drop-in facilities who do not realize that they are unregistered and not licensed. **{Tape : 3; Side : A; Approx. Time Counter : 18.3 - 23.3}**

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

Rep. Brown asked the sponsor what this does for a person such as a grandmother with whom a neighbor drops off kids once or twice a week, who may have a few kids that she watches on a drop-in basis, and whether she would need a license. Rep. Mangan said she could if she wanted to, but she wouldn't have to. Rep. Brown pointed out that the bill does refer, on line 22, to "any number of children on an irregular basis," and he again questioned if the grandmother in his example would be exempt. Rep. Mangan said they could certainly take a look at the language. Ms. Rosenleaf said current regulations requires persons who care for three or more unrelated children on a regular basis to be licensed, which would include a grandmother who took in neighbors' children regularly. There is no intention to regulate the occasional grandmother caretaker, and this would be addressed in department rules.

Rep. Thomas asked if there are many licensed day-care centers that provide drop-in services like this during weekends. Rep. Mangan said that some are starting to do that. Rep. Schmidt said she was still concerned about line 22, "any number of children on an irregular basis." Ms. Rosenleaf said if this is a problem, the committee might want to strike the language, or she could work on an amendment. {Tape : 3; Side : A; Approx. Time Counter : 23.3 - 25.6}

Closing by Sponsor:

Rep. Mangan said this is the third draft of the bill and he hoped that additional amendments could be considered to address the concerns that were brought up. There are large centers, who are taking in numerous children, that are not licensed and unregulated. This bill is about health and safety standards for children. Licensure with the department is not a bad thing, and it does allow the providers to receive the federal subsidy for child care. Quality child care is important to economic development, and as the economy grows and more people go to work, the more child care slots will be needed. {Tape : 3; Side : A; Approx. Time Counter : 25.6 - 30.4}

ADJOURNMENT

Adjournment: 6:20 P.M.

REP. BILL THOMAS, Chairman

PATI O'REILLY, Secretary

BT/PO/JB

Jan Brown transcribed these minutes

EXHIBIT (huh19aad)